

**Montgomery County Code
Chapter 5.**

**As amended by Bill 28-98
(enacted as Chapter 10, L.M.C. 1999),
effective August 6, 1999.**

**ANIMAL CONTROL.
ARTICLE I. GENERAL PROVISIONS**

5-101. Definitions.

In this Chapter, the following words and phrases have the following meanings:

Alter: To castrate or perform an ovario-hysterectomy to make an **animal** physically incapable of reproducing.

Animal: An animate being capable of voluntary movement, other than humans. Specifically, a non-human **species** in the biological kingdom *Animalia*.

Animal control officer: The **Director** of the **Division** acting under the immediate direction of the Director of the Department of Police, or the **Division Director's** designee.

Animal control shelter: A **facility** owned or operated by, or under contract with, the County for the care, confinement, or detention of **animals**.

Appropriate authority: For purposes of State law regarding **animals**, the **Division**, the **Board**, and any other agency or official designated by regulation.

Aviary: A place for keeping birds confined.

Benevolent organization: A non-profit organization, registered with the **Division**, that cares for stray and homeless **animals**.

Board: The Animal Matters Hearing Board.

Cage: An enclosure of limited space, enclosed on the bottom and on all 4 sides, in which **animals** are placed for any purpose, including confinement or display.

Commercial enterprise: An establishment whose primary function is to sell products, services, or commodities.

Commercial kennel: An establishment to sell **animals** or breed them for sale, or that provides boarding, grooming, or training for **animals** for a fee. **Commercial kennel** does not include:

- (1) an **animal** hospital maintained by a licensed veterinarian; or
- (2) a **fancier's** kennel.

Cross-tethering: A manner of securing an **animal** firmly by tying the **animal** from at least two different directions.

Dangerous animal: A dangerous **animal** as defined in Section 5-202.

Director: The Director of the **Division** or the Director's designee.

Disposition: Adoption or other placement of a **domestic animal**, release of a **wild animal** into a suitable habitat, or humane euthanasia administered in a manner approved by the **Division**.

Division: The **Division** of Animal Control and Humane Treatment in the Department of Police.

Domestic animal: An **animal** of a tamed **species** commonly kept as pets or **livestock**.

Dwelling: A building or portion of a building that provides complete living facilities for people, including facilities for cooking, sanitation,

and sleeping. **Dwelling** does not include a garage or extended structure separate from a house.

Exotic animal: A non-native **species** kept as a pet or **livestock**, other than a rodent, rabbit or hare, or hoofed **animal**.

Facility: A building or land, other than a veterinary hospital, for boarding, breeding, or care of **domestic animals** (except **animals** raised for agricultural purposes) for profit.

Fancier: A person who owns or keeps 3 or more dogs or cats for noncommercial hunting, tracking, exhibition in shows, or field or obedience trials. **Fancier** does not include a person who keeps:

- (1) 3 or more male dogs or cats primarily for commercial stud services; or
- (2) 3 or more female dogs or cats that each bear offspring more than once in a 12-month period.

Fancier's kennel: A private kennel maintained by a **fancier** to keep or train dogs or cats.

Groomer: An individual who provides bathing and haircutting of pets for compensation.

Guard dog: A dog trained to protect persons or property or to attack on command. **Guard dog** includes a dog serving a law enforcement agency, unless otherwise indicated. See Section 5-202(h).

Harbor: To provide food or shelter to an **animal**.

Health Officer: The County Health Officer or the Officer's designee.

Healthful: Hygienic conditions that maintain health and prevent disease in a particular **species** of **animal**.

Keeper: A person who maintains a **facility** regulated by this Chapter.

Livestock: Horses, cattle, sheep, goats, swine; domesticated rabbits and hares; commercially raised fur-bearing **animals**; and similar **animals**.

Mammal: An **animal** of any **species** of higher vertebrates that nourish their young with milk secreted by mammary glands and have skin covered with hair.

Non-commercial kennel: A building or land for boarding, breeding, or care of **domestic animals** that belong to the **owner** of the building or land and are kept for show or hunting, or as pets. **Non-commercial kennel** does not include a riding stable.

Obedience trained: An **animal** trained to **heel** on and off a leash and obey commands to come to its **owner**, sit, lie, and stand until further command. **Heel** means to move along at the heels of a person controlling the **animal**.

Owner: A person who, regardless of whether the person has legal title to the **animal**:

- (1) temporarily or permanently **harbors** or controls an **animal**;
- (2) has a property right in an **animal**; or
- (3) allows a person under 18 years old to **harbor** or control an **animal**.

Owner does not include a veterinary hospital, **commercial kennel**, or **pet shop** (regarding an **animal** being treated, boarded, or offered for sale, respectively), or an employee of these enterprises unless otherwise indicated in this Chapter.

Pet shop: A commercial enterprise that offers for sale any **species** of live **animal**. **Pet shop** does not include an enterprise that offers only **livestock** for sale.

Potentially dangerous animal: A potentially dangerous **animal** as defined in Section 5-202.

Public nuisance: A condition or repeated behavior that unreasonably interferes with or harms public health, safety, or peace. **Public nuisance** includes the conditions or repeated behaviors described in Section 5-203(b).

Qualified activity: A legal, supervised animal activity using humane practices, such as hunting, chasing, obedience or agility training, herding, tracking, or search and rescue.

Riding school or stable: A place where riding instruction is provided for a fee, or horses, ponies, donkeys, mules, or burros are offered for hire, boarded, traded, bought, or sold.

Rodent-proof: Resistant to the entry, feeding, **harboring**, or breeding of rodents.

Sanitary: A condition of good order and cleanliness that reduces the spread of disease.

Species: A biological classification more specific than a genus or subgenus, describing related **animals** with common attributes capable of interbreeding.

Trainer: An individual who provides **animal** behavior modification services or classes for a fee.

Wild animal: An **animal** of a **species** of an untamable disposition, a **species** in a state of nature, or a native self-sustaining **species**. All

animals of these **species** are **wild animals** even if a particular **animal** has characteristics that reflect domestication or taming.

5-102. Administration.

(a) *Division duties.* The **Division** administers this Chapter and must:

- (1) provide an **animal** shelter program;
- (2) assist and cooperate with the **Health Officer** and State officials in carrying out an anti-rabies program, including vaccination of dogs, cats, and ferrets, as required by State law and this Chapter;
- (3) carry out a program to license dogs and cats, as required by State law and this Chapter;
- (4) provide education programs regarding the humane treatment of **animals**;
- (5) provide wildlife management; and
- (6) provide a spay-neuter program.

The **Division** may provide other services and programs to promote the humane treatment of **animals** and protect public health and welfare from **animal**-related hazards.

(b) *Director.* The Director of the Division must:

- (1) maintain records of any license issued under this Chapter for an **animal** or **facility**;
- (2) supervise any **animal control shelter**;
- (3) maintain permanent records of:
 - (A) **animals** impounded or otherwise **harbored** by an **animal control shelter**;
 - (B) **animals** inoculated against rabies; and
 - (C) all **animal** bites or other attacks in the County;

- (4) collect and dispose of any dead **wild, domestic, or exotic animal** the size of an opossum or larger, found on a County road or other County property (and may do the same for this type of **animal** found on other property) and must recover from any identifiable **owner** of the **animal** a collection and disposal fee; and
 - (5) enforce this Chapter and, concurrently with other authorized County officials, Chapter 31B (Noise Control) for a noise disturbance by an **animal**.
- (c) *Animal shelter.* The County must, directly or by contract, maintain and operate an **animal** control shelter or other place of confinement. The shelter must remove, **harbor**, care for, and **dispose** of any **animal** that the **Division** finds is abused, homeless, unwanted, abandoned, or neglected, or threatens the health, safety, peace, or security of the public.
- (d) *Care of animals.* The County may contract with veterinarians or **animal** hospitals to care for injured or diseased **animals** whose owners are unknown, that the County or its agents collect, or that any person brings to the **animal** control shelter.
- (e) *Enforcement of state animal control laws.* To the extent allowed by State law, the **Division** may enforce any State **animal** control law. A reference in a State **animal** control law to the “**appropriate authority**” (or any similar term) in the County means the **Division** and any other County agency designated by regulation adopted under method (3).

5-103. Regulations.

The County Executive may adopt regulations to implement this Chapter under method (2) or another method specified in this Chapter. The Executive may establish fees under this Chapter by regulation adopted under method (3).

5-104. Animal Matters Hearing Board.

(a) *Membership.*

- (1) The Animal Matters Hearing Board consists of 5 members appointed by the County Executive and confirmed by the County Council. The **Board** must include:
 - (A) a veterinarian or veterinary technician;
 - (B) a representative of the Montgomery County Humane Society; and
 - (C) 3 public members, including a representative of licensed **animal fanciers**.
- (2) The Executive must appoint, subject to Council confirmation, a qualified alternate for each member. The alternate may vote in place of the member when the member is absent.
- (3) The Executive may remove a member who misses three meetings during a fiscal year without permission of the Chair.
- (4) Each member and alternate serves for 3 years or until a successor takes office, whichever is later. A person appointed to fill a vacancy fills the remainder of the predecessor's term.
- (5) The **Board** must elect a Chair each year from among its members.

(b) *Duties.* The **Board** must:

- (1) decide complaints and appeals under this Chapter, including complaints alleging a violation of an **animal control shelter** adoption contract;
 - (2) recommend standards to maintain regulated **facilities**;
 - (3) review the annual proposed budget for the **animal control shelter** and make budget recommendations for the **shelter** to the Executive and the Council; and
 - (4) report annually to the Executive and Council on the **Board's** activities and any recommendations for improving **animal** control laws, regulations, and programs.
- (c) *Authority.* The **Board** may:
- (1) Order the **Director** to seize, impound, destroy, or take any other action the **Board** decides is necessary regarding an **animal** that is suffering **cruelty, dangerous or potentially dangerous**, or causing a **public nuisance** or other violation of this Chapter.
 - (2) Specify conditions under which an **owner** may keep an **animal** that the **Board** finds has suffered **cruelty, is dangerous or potentially dangerous**, or caused a **public nuisance** or other violation of this Chapter.
 - (3) Require an **owner** to forfeit an **animal** to the County or prohibit the **owner** from **harboring** an **animal** in the County.
 - (4) Impose conditions on an **owner harboring** other **animals** in the County.
 - (5) Revoke or suspend a **facility's** license for a violation of this Chapter.

- (6) Appoint a person to mediate a case if the **owner** and each complainant (which may include the **Division**) agree. A consent order resulting from mediation is an order of the **Board**. If the mediator or the **Board** finds that the parties are not likely to agree to a mediated consent order within a reasonable time, the **Board** must decide the case.
 - (7) Order the **owner** of an **animal** to pay actual damages (including medical or veterinary expenses) not exceeding \$1,000 to a person injured or aggrieved by the **animal's** actions or behavior. This limit applies separately to each incident resulting in a violation of an **animal** control law.
- (d) *Procedures.*
- (1) The Administrative Procedures Act (Chapter 2A) applies to the **Board's** hearings and decisions, unless otherwise expressly provided in this Chapter. The **Board** may issue procedural rules to implement this subsection. The **Board** may hold an emergency hearing under Section 2A-9.
 - (2) (A) Except as provided in Section 2A-9, the **Board** must send or deliver written notice of a matter before the **Board** to each person aggrieved by an action or proposed action of the **Director**, the **Board**, or an **animal control officer** at least 15 days (or shorter period if all parties agree) before holding a public hearing on the matter. The **Board** must hold a hearing at the request of a person aggrieved, and may hold a hearing at the request of another party to the

matter (which may include an **animal control officer**) or on the **Board's** own initiative.

(B) If the **Board** finds that the circumstances justifying an action or proposed action (including the seizure, impoundment, or humane euthanasia of an **animal**):

- (i) constitute an immediate threat to the health or safety of an **animal**, a person, or the public, the **Board** may provide the notice and any requested hearing as soon as practical after the action; or
- (ii) do not constitute an immediate threat, the **Board** must provide the notice and any requested hearing before ordering the action or modifying an action of the **Director** or an **animal control officer**.

(3) The **Board** must notify the **Director** and each party to a complaint by first class mail sent, or personal delivery made, at least 15 days (or shorter period if all parties agree) before a hearing, specifying the time and place of the hearing.

(4) Appeals to or from the **Board** are subject to the requirements of Section 5-306.

(e) *Fee.* The Executive may set by regulation a fee for filing a complaint with the **Board**. The filer must pay the fee to the **Division** when filing a complaint. The **Board** or the **Animal Control Officer** may waive the filing fee in response to a complainant's request. If the parties agree to a consent order after mediation, the **Board** may refund the filing fee. The **Board** may order the losing party to pay another party's

filing fees or other reasonable expenses related to the hearing, in addition to ordering payment of damages.

- (f) *Support.* The Chief Administrative Officer must provide the services and County facilities that are reasonably necessary for the **Board** to perform its duties. The County Attorney must provide legal counsel to the **Board**.

ARTICLE II. PROHIBITED CONDUCT.

5-201. Cruelty.

- (a) *Violation.* A person must not violate State laws against cruelty to **animals**, such as by:
- (1) violating general prohibitions against cruelty (Md. Code, Article 27, § 59);
 - (2) killing a dog or cat by an inhumane method (Md. Code, Article 27, § 59A);
 - (3) abandoning a domestic **animal** (Md. Code, Article 27, § 60);
 - (4) giving away **animals** under certain circumstances (Md. Code, Article 27, § 60A);
 - (5) selling or importing certain puppies and kittens (Md. Code, Article 27, § 60B);
 - (6) selling or coloring a chick (Md. Code, Commercial Law Article, § 11-904);
 - (7) injuring certain horses (Md. Code, Article 27, § 61);
 - (8) killing or trapping a carrier pigeon (Md. Code, Article 27, § 64 to 66);
 - (9) poisoning a dog (Md. Code, Article 27, § 69);

- (10) failing to take actions required for the driver of a motor vehicle that hits and injures an **animal** (Md. Code, Transportation Article, § 20-106); or
- (11) leaving a cat or dog in a vehicle under certain circumstances (Md. Code, Transportation Article, § 21-1004.1).
- (b) *Regulations.* The County Executive may issue regulations, consistent with State law, to interpret and implement State anti-cruelty laws in the County.

5-202. Dangerous animals.

- (a) *Violation.*
 - (1) A person must not import, sell, trade, buy, barter, breed, raise, keep, or possess
 - (A) a **wild animal**; or
 - (B) any **animal** that the County or any other jurisdiction finds is **dangerous** or a threat to public health or safety, including types of **animals** excluded from State law prohibitions on **dangerous animals**.
 - (2) An **animal** is **dangerous** if the **animal** is:
 - (A) a “dangerous dog” as defined in Md. Code, Article 27, § 70E;
 - (B) any other **animal** that, without provocation (as described in subsection (e)), has killed or severely injured a person, unless the **Board** finds that the **animal** is not dangerous;
 - (C) an **animal** that poses a physical threat to humans because of specific training or demonstrated behavior, or because the **animal’s** bite is poisonous; or

- (D) a **potentially dangerous animal** that:
 - (i) bites a person;
 - (ii) attacks a person or **animal** without provocation; or
 - (iii) kills or severely injures a domestic **animal** outside the property of the **potentially dangerous animal's** owner.

(3) An **animal** is **potentially dangerous** if:

- (A) the **animal**:
 - (i) bit a person;
 - (ii) killed or severely injured a **domestic animal** outside the attacking-**animal owner's** property;
 - (iii) attacked a person or **animal** without provocation (as described in subsection (e)); or
 - (iv) was declared by the County or another jurisdiction as potentially dangerous (even if the other jurisdiction uses a different term); and
- (B) the **Division** notifies the **owner** that the **animal** is **potentially dangerous**.

An **animal's** actions in a **qualified activity** do not make the **animal potentially dangerous**.

- (b) *Declared dangerous elsewhere.* An owner of an **animal** declared **dangerous** or **potentially dangerous** in another jurisdiction must remove the **animal** from the County within 10 days after receiving a citation or other notice of a violation of this Chapter unless the **Director** waives this requirement and imposes conditions for the **animal** to remain in the County.

- (c) *Limited waiver.* The **Director** may waive the prohibitions of subsections (a) or (b) for a specific **animal** only if the **Director** finds that the **animal** is not a threat to public health or safety.
- (d) *Confinement.* If a **dangerous animal** is allowed in the County, the **animal's owner** must keep the **animal** confined in a building or other secure enclosure to prevent direct contact between the **animal** and human beings or other **animals**. A person must not release the **animal** from confinement unless the **animal** is
- (1) securely muzzled in a manner approved by the **Division**;
 - (2) leashed; and
 - (3) under the control of a person at least 18 years old who is physically able to restrain the **animal**.
- (e) *Provocation.* Biting or attacking does not make an **animal dangerous**, and attacking does not make an animal **potentially dangerous**, if the behavior is:
- (1) in response to current or previous tormenting, teasing, abuse, threat, or assault by a person or **animal**;
 - (2) in response to pain or injury;
 - (3) to protect the **animal**, its offspring, or other **animals** in the same household; or
 - (4) directed against a person who is:
 - (A) not lawfully present where the action or behavior occurs;
 - (B) injuring, threatening or endangering the **animal's owner** or another person in the vicinity; or
 - (C) damaging or unlawfully entering the property, household, or enclosure where the **animal** is **harbored**.

- (f) *Guard dogs.* An **owner** of a **guard dog** must:
 - (1) confine the dog as described in subsection (c);
 - (2) transport the dog only in a humane, escape-proof manner;
 - (3) ensure that the dog always wears a tag identifying the **owner's** name, address, and emergency phone number;
 - (4) tell the Department of Police and the Fire Department the location of a working **guard dog** before placing the **animal** in service and provide emergency contact information about the **owner**; and
 - (5) on demand by an **animal control officer**, produce the dog for examination by a specific veterinarian at the **owner's** expense.
- (g) *Licensing records.* The **Director** must indicate in the licensing records whether a licensed **animal** is **dangerous**, **potentially dangerous**, or a **guard dog**.
- (h) *Exception.* A dog serving a law enforcement agency is not a **dangerous** or **potentially dangerous animal** or a **guard dog** under this Section.

5-203. Public Nuisance and Other Violations.

- (a) *Violation.* An **owner** must not:
 - (1) Allow a dog or unaltered cat to be **at large**.
 - (2) Allow an **animal** to damage or defecate on property outside the **owner's** property. An **animal** may defecate on public property or the common area of property in which the **owner** shares an interest if the **owner** immediately removes and disposes of the feces by a **sanitary** method approved by the **Division**. This paragraph does not affect any right of a common ownership

community to regulate or ban **animals** from the community's property.

- (3) Allow an **animal** to enter private property without the property owner's permission. The property owner may capture the trespassing **animal** humanely and promptly notify animal control or other appropriate law enforcement authorities, or humanely transport the **animal** to an **animal control shelter**.
- (4) Allow a female dog or cat in heat to be outside a building or other secure enclosure that prevents attraction of other **animals**.
- (5) Allow an **animal** to cause an **unsanitary**, dangerous, or offensive condition because of the size or number of **animals** in a single location or because a **facility** is not appropriate for the **animal** or properly maintained.
- (6) Allow an **animal** to cause noise that is loud and persistent enough to disturb another person's quiet enjoyment.
- (7) Allow a dog to be on public school grounds on a day when school is in session, or in a public recreation area during an organized activity, unless the dog is controlled by a leash or similar restraining device. This paragraph does not apply to a dog participating in a **qualified activity** if the agency controlling the school or area gave permission to the **owner** of the dog or the sponsor of the **qualified activity**.
- (8) Allow a domestic or exotic bird, including a homing pigeon, to be in an **aviary** within 100 feet of any structure owned or leased by another person and used for human habitation or work. This paragraph does not apply to a bird:

- (A) other than a homing pigeon, inside the **owner's dwelling**;
 - (B) in a **pet shop**;
 - (C) in an agricultural zone as defined in Chapter 59; or
 - (D) in a market for less than 24 hours for sale for human consumption.
 - (9) Refuse or fail to obtain a license for a dog, cat, or ferret as required by State law or this Chapter.
 - (10) Allow an **animal** to act in any other way that the **Director**, the **Board**, or an **animal control officer** finds would cause any other **public nuisance** established by regulation. An action prohibited by the regulation is a violation even if the action does not qualify as a **public nuisance** because the **owner** has not received notice described in subsection (b)(1).
- (b) *Public nuisance.* An **owner** must not allow an **animal** to create a **public nuisance** by:
- (1) behavior described in subsections (a)(1), (2), (3), (4), (6), (8), (9), or (10) occurring after the **owner** received notice from the County in any form (such as an oral warning from a **Division** employee) of a violation because of the same behavior; or
 - (2) any behavior described in subsections (a)(5) or (7).
- (c) *At large.* An **animal** is **at large** if it is outside the premises of its **owner** and not leashed or otherwise restrained to prevent unwanted contact with a person or another **animal**. For purposes of this Chapter or any other **animal** control law, the common area of a homeowners' association, condominium, or cooperative is not the **owner's** premises.

A dog participating in a **qualified activity** is not **at large** unless the dog leaves the **activity**.

ARTICLE III. ENFORCEMENT, PENALTIES, AND APPEALS.

5-301. General provisions.

- (a) *Who may enforce.* The **Director**, an **animal control officer**, the **Board**, and any other person authorized by regulation issued under method (2) may enforce an **animal** control law. In this Article, an “**animal** control law” includes a State **animal** control law, this Chapter, and, for noise from an **animal** source, Chapter 31B.
- (b) *Forms of enforcement.* The **Director** or an **animal control officer** may enforce an **animal** control law by issuing a citation or other lawful order. To exercise its authority, the **Board** must issue a written order that explains the factual and legal basis for the order.
- (c) *Types of enforcement.*
 - (1) Except as provided in paragraph (2), the **Director** or an **animal control officer** may, to enforce an **animal** control law or protect the health or safety of an **animal**, a person, or the public:
 - (A) seize, impound, and **dispose** of an **animal**; or
 - (B) take any other action necessary (or order an **owner** to take any other action necessary) to enforce the law.The **Board** may order the **Director** or an **animal control officer** to take an action described in this paragraph.
 - (2) The **Director** or an **animal control officer** must not destroy an **animal** under paragraph (1) unless:
 - (A) the **Board** has ordered the destruction of the **animal**; or

- (B) destruction of the **animal** is necessary to prevent an immediate threat to public health or safety.
- (3) A citation or order may require an **owner** to act or refrain from acting to prevent or stop a violation of an **animal** control law.
- (d) *Warrants.* An **animal control officer** may enforce an **animal** control law by searching private property and seizing evidence or **animals**, under State law or a warrant issued by a court.
- (e) *Interference with enforcement.* A person must not interfere or attempt to interfere with any County officer, employee, or agent enforcing an **animal** control law.
- (f) *Failure to follow or appeal an order.* An **owner** who, without justification, does not follow or appeal a legal order issued under this Chapter has abandoned and forfeited to the County any **animal** that is the subject of the order.
- (g) *Concealing ownership.* A person must not conceal or falsely deny **ownership** of an **animal** to any person authorized to enforce an **animal** control law.

5-302. Special Enforcement Provisions Regarding Specific Offenses.

- (a) *Dangerous or potentially dangerous animals.*
 - (1) An **animal control officer** immediately may seize, impound, and humanely euthanize, at the **owner's** expense, an **animal** that the **Director**, an **animal control officer**, or the **Board** finds is **dangerous** or **potentially dangerous** and poses an immediate threat to public health or safety. If an **owner** requests a hearing within 5 days after the County notifies the **owner** of any action under this paragraph, the **Board** must hold a hearing after the

fact on the action and may order the County to pay reasonable compensation if the action was not justified.

- (2) If the **animal** poses no immediate threat, the **owner** may, within 5 days after the County notifies the **owner** about the violation, appeal the violation or action to the **Board**; and request a hearing . The County must not **dispose** of the **animal** during the 5-day period for filing an appeal, or while an appeal is pending.

- (b) *Public nuisance and other violations.* An **animal control officer** may enforce Section 5-203 if the **officer** observes a violation or receives a complaint under oath from at least one witness to a violation. The **Board**, the **Director**, or an **animal control officer** may order any action necessary to abate a **public nuisance** or any other violation of Section 5-203.

5-303. Impoundment.

- (a) *Generally.* The **Director**, an **animal control officer**, or the **Board** may enforce an **animal** control law or protect the health or safety of a person, an **animal**, or the public by impounding (or for the **Board**, ordering the **Director** to impound) an **animal** at an **animal control shelter** or other **facility** approved by the **Director**.
- (b) *Notice of impoundment.* The **Director** promptly must make a reasonable effort to locate and notify the **owner** of an impounded **animal**. The notice must inform the owner of applicable requirements of this Chapter, including the requirement in subsection (c) to pay in advance for the animal's care and the opportunity to request a waiver of the prepayment requirement under subsection (c)(7). The **Director** may notify the **owner** by first class mail to the **owner's** last known

address, or, if the **Director** cannot locate the **owner**, by publishing a notice in a newspaper of general circulation in the County.

(c) *Prepayment for care.*

- (1) Within 3 days after receiving notice that an **animal** was impounded under any provision of this Chapter, the **animal's owner** must pay to the County the estimated cost of caring for the **animal** for the 30-day period beginning on the date the **animal** was impounded. The **Director** must estimate the cost, which must include the cost of food, veterinary care, and other necessities that a responsible **owner** would provide for the **animal** and may include other costs, such as *pro rata* staffing and administrative expenses, allowed by regulation. The **owner** must pay in cash or by another method acceptable to the **Division**.
- (2) If the **animal** remains impounded at the end of a 30-day period, the **owner** must, within 3 days after that 30-day period ends:
 - (A) pay any difference between the estimated and actual cost of care; and
 - (B) prepay the estimated cost of 30 additional days of care.
- (3) The **Director** may:
 - (A) revise the estimated cost of care for each 30-day period to improve the accuracy of the estimate; and
 - (B) apply any previous payment for that **animal** that exceeds the actual cost of care to the next 30-day period.
- (4) (A) The County must refund to the **owner**, within 10 business days after:

- (i) the end of the impoundment, any payment from the **owner** that exceeds the actual cost of care, including any payment for a day that the County did not care for the **animal**; or
 - (ii) the final judgment of a court holding that the County seized and impounded the animal illegally, all payments from the **owner**.
 - (B) If the actual cost of care exceeds the total estimated payments, the **owner** must pay the difference under Section 5-304(b) and (c).
- (5) If the **owner** does not comply with this Section at any time, the **animal** must be treated as abandoned and becomes the property of the County.
- (6) The prepayment requirement in this Section does not apply to an **animal** impounded as a stray in violation of Section 5-203(a)(1) unless the **animal** also is impounded for any other violation of this Chapter.
- (7) The **Director** may waive or modify the prepayment required under this subsection (such as by requiring weekly prepayments) if the **owner** provides evidence that prepayment for 30 days of care would be a serious financial hardship to the **owner**.
- (d) *Multiple impoundments.*
 - (1) If an **unaltered** dog or cat is impounded 2 or more times, the **owner** must have the **animal altered** at the **owner's** expense or surrender the **animal** to the **Director** unless:

- (A) the **owner** appeals to the **Board** within 10 days after the date of the second violation; and
 - (B) the **Board** after a hearing waives this requirement or orders other action.
- (2) The **Director** must not allow an **owner** to redeem an **animal** impounded less than 12 months after the **animal** was released from a previous impoundment until the **Director** has issued, and the **owner** has paid or successfully appealed, a citation for the current violation.

5-304. Disposition.

- (a) *Types of disposition.* An **animal** impounded by the County may be:
 - (1) redeemed by an **owner** under certain circumstances;
 - (2) placed for adoption if abandoned;
 - (3) set loose in a suitable habitat if **wild**; or
 - (4) humanely euthanized in a manner approved by the **Division**.
- (b) *Redemption.* The **owner** of an impounded **animal** may redeem the **animal** if:
 - (1) the **owner** pays impoundment and boarding fees, including the costs of caring for the **animal**, transporting **livestock**, or removing an **animal** from a tree or other location to protect the health or safety of humans or the **animal**;
 - (2) the **owner** pays a field service fee, if a County employee or contractor brought the **animal** to a **shelter** or other **facility**;
 - (3) the **owner** shows proof of legal title to the **animal**;
 - (4) the **animal** is licensed;

- (5) the **Director** approves or the **Board** orders the redemption, and the **owner** complies with any conditions for redemption; and
- (6) redemption is not prohibited by another **animal** control law.
- (c) *Fees.* The **owner** must pay any fees described in subsection (b) even if the **owner** does not redeem the **animal**. Failure to pay within 30 days after any fee becomes due is a Class B civil violation.
- (d) *Release or adoption prohibited.* The **Director** must not:
 - (1) **release** an **animal** impounded under a **Board** order unless a **Board** order allows redemption; or
 - (2) place for adoption an **animal** that has not been abandoned unless the **owner** consents.
- (e) *Dangerous or nuisance animals.* The **Director** or any other person must not sell, **release**, or place for adoption an **animal** that an **animal control officer** found is **dangerous** or **potentially dangerous**, would cause a **public nuisance** or other violation, or has rabies or an incurable communicable disease, unless the **Director** finds the action is safe.
- (f) *Failure to redeem.* Unless otherwise ordered by the **Board**, an impounded **animal** is considered abandoned and becomes County property if the **animal** is not redeemed by its **owner** within 5 days after the **Director** notifies the **owner** about the impoundment under Section 5-303(b).
- (g) *Adoption.* The **Director** may place an abandoned **animal** for adoption as a pet unless the **Board** or the **Director** decides adoption of the **animal** is not in the best interest of public health or safety. A dog or cat placed for adoption must be **altered** by a licensed veterinarian, at

the expense of the person adopting the **animal**, within a time specified by the **Director**. The **Director** must set the deadline for **altering** based on the **animal's** age, sex, and health, but the deadline must be within 3 months after the adoption. If the **owner** of an adopted **animal** does not **alter** the **animal** by the deadline, the **owner** must return the **animal** to the **animal control shelter**.

- (h) *Humane euthanasia.* The County may **dispose** of an **animal** by humane euthanasia under regulations issued with the advice of a licensed veterinarian. The County must not dispose of an **animal** for commercial or experimental purposes. A licensed veterinarian periodically must review whether the County implements these procedures humanely.
- (i) *Release defined.* In this Section, **release** means to allow an **owner** to redeem an impounded **animal**.

5-305. Penalties.

- (a) *General penalty.* Unless otherwise provided in this Chapter or State law, a violation of this Chapter is a Class B violation. For any penalty under this Chapter, each day the violation continues, and each paragraph of Section 5-203(a), is a separate violation. A person convicted of violating a State **animal** control or anti-cruelty law is not subject to civil penalties for violating County law based on the same prohibited acts or omissions.
- (b) *Violation of an order of the Board.* A violation of an order issued by the **Board** is a Class A civil violation. Each day the violation continues is a separate violation.
- (c) *Penalties.* A violation of:

- (1) Section 5-201 is a Class A civil violation for which the penalty must not exceed the maximum penalty allowed by State law for the equivalent offense under State law;
- (2) Section 5-202 is a Class A violation
- (3) any paragraph of Section 5-203(a) that is not also a violation of Section 5-203(b) is a Class B violation; and
- (4) Section 5-203(b) is a Class A violation.

5-306. Appeal.

- (a) *Appeal to the Board.* A person aggrieved by a decision of the **Director** or an **animal control officer** may appeal the decision to the **Board** within 5 days after the **Director** or the **animal control officer** notifies the **owner** about the decision. The **Board** may modify a decision of the **Director** or an **animal control officer** only if the appellant proves by a preponderance of the evidence that decision was arbitrary, illegal, or not based on substantial evidence. The **Board** must issue a written decision explaining the factual and legal basis for the decision.
- (b) *Appeal from the Board.* A person aggrieved by an order of the **Board** may appeal the order under Section 2A-11 within 10 days after the **Board** issues the order.
- (c) *Requirements for appeal.* If an **owner** appeals an impoundment, seizure, or **disposition** order issued or affirmed by the **Board**, the **owner** must board the **animal** at a **facility** approved by the **Division**. The **owner** must pay the cost of impounding the **animal** before and during the appeal, or if the **Board** allows, post a bond to pay these

expenses if the **owner** does not prevail in the appeal. If the owner fails to meet these requirements, the **animal** is abandoned.

ARTICLE IV. LICENSING AND HEALTH

5-401. Dog and Cat Licenses.

- (a) The **Director** must implement the State dog licensing laws that apply in the County (Md. Code, Article 24, Title 11, Subtitle 5) and must apply the same licensing requirements to cats. The Executive may set fees for cat licenses that are different than the equivalent fees for dog licenses.
- (b) The County Executive must, consistent with State law, set fees by regulation under method (3), and issue other regulations (such as a regulation authorizing different fees or free licenses for dogs or cats meeting certain age or other requirements) under method (2) to implement this Section. The regulations must coordinate dog and cat licensing with rabies vaccination under Section 5-402 and must require a dog or cat to wear its own legible, unobscured license tag attached to a collar or harness whenever the **animal** is outside the **owner's** home.

5-402. Rabies Control.

- (a) The **Director** and the County Health Officer must implement the State anti-rabies laws (Md. Code, Health-General Article, Title 18, Subtitle 3, Part III). The Executive must issue fee regulations under method (3) and other regulations under method (2) to implement this Section.
- (b) Consistent with State law (Md. Code, Health-General Article, §18-315), the County Health Officer must conduct an anti-rabies clinic at least annually to vaccinate dogs, cats, and ferrets.

5-403. Clinics to Alter Animals.

- (a) The County directly or by contract must establish one or more clinics where County residents may have dogs or cats **altered** in a humane manner by a licensed veterinarian for a fee set by regulation. The County may contract for **altering** services by a licensed veterinarian at the veterinarian's own place of business. The fee may be:
 - (1) uniform or based on ability to pay; and
 - (2) waived or reduced for financial hardship.
- (b) A person seeking to have an **animal altered** must certify that the person owns the **animal** or has authority to obtain the service. The person must agree in writing to hold the clinic and veterinarian harmless in any dispute about the person's authority.
- (c) A person must retrieve the **altered animal** on the date specified by the clinic. The person must pay any additional charges for boarding the **animal** after that date. An **animal** not retrieved within 10 days after that date is abandoned.

5-404. Animal Business Licensing.

- (a) *Businesses requiring a license.* The County Executive must issue regulations to require and set conditions for an annual County license to operate:
 - (1) a **pet shop**;
 - (2) a **commercial kennel**;
 - (3) as a **fancier**;
 - (4) a **riding school** or **stable**;
 - (5) a **benevolent organization**; or
 - (6) as a **groomer, trainer, or guard dog operator** who places a dog for hire on private property.

- (b) *Fees.* The Executive must issue regulations to set fees:
 - (1) under method (2) for licenses under subsections (a)(1) to (5);
and
 - (2) under method (3) for licenses under subsection (a)(6).
- (c) *Denial, suspension, and revocation.*
 - (1) The **Division** may deny, suspend, or revoke a license:
 - (A) for a **facility** that violates any provision of the Code, including Chapter 59, or any State or federal law; or
 - (B) if the applicant or licensee withholds or falsifies information, or engages in fraud or misrepresentation regarding the sale of **animals**.
 - (2) A person aggrieved by an action under this subsection may appeal the action under Section 5-306.
- (d) *Inspections.* A **facility** that requires a license under this Section must allow an **animal control officer** or other law enforcement officer to inspect the **facility**.
- (e) *Health and safety regulations.* Executive regulations should include licensing requirements to protect human health and safety and enforce state laws against cruelty to animals.

NOTE: For ease of reading, this edited version of Bill 28-98 does not show certain technical amendments to the County's Administrative Procedures Act or an uncodified provision regarding the continued effectiveness of existing regulations. The text of the law that Bill 28-98 will amend is available at public libraries in the County.